

1-1 By: Lucio S.B. No. 684  
1-2 (In the Senate - Filed February 23, 2005; March 2, 2005,  
1-3 read first time and referred to Committee on International  
1-4 Relations and Trade; March 14, 2005, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 March 14, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 684 By: Lucio

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to authorizing certain counties and municipalities to  
1-11 regulate land development; providing a penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 242, Local Government Code, is amended  
1-14 by adding Subchapter B to read as follows:

1-15 SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND  
1-16 MUNICIPALITIES

1-17 Sec. 242.051. APPLICABILITY. This subchapter applies only  
1-18 to:

1-19 (1) a county that includes territory located within 50  
1-20 miles of an international border; or

1-21 (2) a municipality located in that county if:

1-22 (A) the county does not exercise in the  
1-23 municipality's extraterritorial jurisdiction the authority  
1-24 described by this subchapter; and

1-25 (B) the county by resolution authorizes the  
1-26 municipality to exercise in the municipality's extraterritorial  
1-27 jurisdiction the authority described by this subchapter.

1-28 Sec. 242.052. REGULATORY AUTHORITY. (a) The  
1-29 commissioners court of a county to which this subchapter applies  
1-30 may, by order, regulate residential land development in the  
1-31 unincorporated area of the county. The governing body of a  
1-32 municipality to which this subchapter applies may, by ordinance,  
1-33 regulate residential land development in the municipality's  
1-34 extraterritorial jurisdiction. By this authority, the  
1-35 commissioners court or governing body may prevent the proliferation  
1-36 of colonias by:

1-37 (1) adopting regulations relating to:

1-38 (A) maximum densities, including the size of  
1-39 lots;

1-40 (B) the height, number of stories, size, or  
1-41 number of buildings or other structures that may be located on a lot  
1-42 or tract;

1-43 (C) the location of buildings and other  
1-44 structures on a lot or tract; and

1-45 (D) the preparation of a plan for utility  
1-46 development, environmental effect and adaptation, utility  
1-47 extension, and capacity planning and providing financial analysis  
1-48 of said plan; and

1-49 (2) adopting building codes to promote safe and  
1-50 uniform building, plumbing, and electrical standards.

1-51 (b) If a tract of land is appraised as agricultural or  
1-52 open-space land by the appraisal district, the commissioners court  
1-53 or governing body may not regulate land development on that tract  
1-54 under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or  
1-55 (a)(2).

1-56 (c) The authority granted under this section does not  
1-57 authorize the commissioners court or governing body to adopt an  
1-58 order regulating commercial property that is uninhabitable.

1-59 Sec. 242.053. BUILDING PERMITS. (a) The county or  
1-60 municipality, as appropriate, shall issue a building permit if the  
1-61 person submitting the application for the permit:

1-62 (1) files information relating to the location of the  
1-63 residence;

2-1 (2) files the building plans for the residence; and  
2-2 (3) complies with the applicable regulations relating  
2-3 to the issuance of the permit.

2-4 (b) The county or municipality may charge a reasonable  
2-5 building permit fee.

2-6 (c) The county or municipality shall deposit fees collected  
2-7 under this section in an account in its general fund and dedicate  
2-8 the fees to the building permit program. The funds in the account  
2-9 may be used only for the purpose of administering the building  
2-10 permit program.

2-11 Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY  
2-12 ORDER. If an order adopted by the county under this subchapter  
2-13 conflicts with an ordinance of a municipality, the municipal  
2-14 ordinance prevails within the municipality's jurisdiction to the  
2-15 extent of the conflict.

2-16 Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. The authority  
2-17 granted by this subchapter does not affect the authority of the  
2-18 commissioners court or governing body to adopt an order or  
2-19 ordinance under other law.

2-20 Sec. 242.056. INJUNCTION. The county or municipality, in a  
2-21 suit brought by the appropriate attorney representing the county or  
2-22 municipality in the district court, is entitled to appropriate  
2-23 injunctive relief to prevent the violation or threatened violation  
2-24 of the entity's order or ordinance adopted under this subchapter  
2-25 from continuing or occurring.

2-26 Sec. 242.057. PENALTY; EXCEPTION. (a) A person commits an  
2-27 offense if the person violates a restriction or prohibition imposed  
2-28 by an order or ordinance adopted under this subchapter. An offense  
2-29 under this section is a Class C misdemeanor.

2-30 (b) It is an exception to the application of this section  
2-31 that:

2-32 (1) the person is an owner-occupant of a residential  
2-33 dwelling that is classified by the Texas Department of Housing and  
2-34 Community Affairs as a low-income household;

2-35 (2) the dwelling was constructed before the effective  
2-36 date of this subchapter;

2-37 (3) the violation related to a building standard or  
2-38 building code for that dwelling; and

2-39 (4) the county or municipality, as appropriate:

2-40 (A) did not make available to the person a grant  
2-41 or loan in an amount sufficient to cure the violation; or

2-42 (B) made available to the person a loan that was  
2-43 sufficient to cure the violation but that caused the housing  
2-44 expenses of the person to exceed 30 percent of the person's net  
2-45 income.

2-46 SECTION 2. The heading to Chapter 242, Local Government  
2-47 Code, is amended to read as follows:

2-48 CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE  
2-49 SUBDIVISIONS AND PROPERTY DEVELOPMENT [~~IN AND OUTSIDE~~  
2-50 ~~MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION~~]

2-51 SECTION 3. Chapter 242, Local Government Code, is amended  
2-52 by designating Sections 242.001, 242.0015, and 242.002 as  
2-53 Subchapter A and adding a heading for Subchapter A to read as  
2-54 follows:

2-55 SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE  
2-56 MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

2-57 SECTION 4. This Act takes effect immediately if it receives  
2-58 a vote of two-thirds of all the members elected to each house, as  
2-59 provided by Section 39, Article III, Texas Constitution. If this  
2-60 Act does not receive the vote necessary for immediate effect, this  
2-61 Act takes effect September 1, 2005.

2-62 \* \* \* \* \*